



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 22, 1995

Mr. Richard D. Monroe  
Deputy General Counsel  
Texas Department of Transportation  
Dewitt C. Greer State Highway Bldg.  
125 East 11th Street  
Austin, Texas 78701-2483

OR95-787

Dear Mr. Monroe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code.<sup>1</sup> Your request was assigned ID# 31077.

The Texas Department of Transportation (the "department") has received a request for a copy of a discrimination complaint file. You seek, however, to withhold certain portions of documents that constitute this file, which you have submitted to us for review, under sections 552.101 and 552.117 of the Government Code.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You claim that section 552.101 in conjunction with the attorney-client privilege excepts some of the requested information from required public disclosure. Although this office has frequently cited section 552.101 to except from disclosure information within the attorney-client privilege, the privilege is more specifically covered under section 552.107 of the Government Code. Open Records Decision No. 574 (1990). Section 552.107 excepts information if:

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<sup>1</sup>The Seventy-fourth Legislature has significantly amended the Open Records Act effective September 1, 1995. See Act of May 29, 1995, H.B. 1718, 74th Leg., R.S. (to be codified at Gov't Code ch. 552) (copy available from House Document Distribution). We do not address in this ruling whether these recent amendments to the Open Records Act will affect requests for this information that are made on or after September 1, 1995.

(1) it is information that...an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas.

The protection of section 552.107(1) is limited to privileged material under Rule 1.05 of the Texas State Bar Disciplinary Rules of Professional Conduct. *Id.* at 5. The state bar rules define "privileged information," in part, as information protected by the attorney-client privilege of Rule 503 of the Texas Rules of Evidence. Thus, section 552.107 excepts only those communications that reveal client confidences or the attorney's legal opinion or advice. Open Records Decision Nos. 589 (1991) at 1, 574 (1990) at 3, 462 (1987) at 9-11.

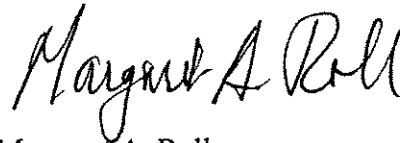
We have examined the highlighted information that you seek to withhold under section 552.107. This information clearly contains communications that reveal client confidences or an attorney's legal opinion or advice. We conclude, therefore, that section 552.107 of the Government Code excepts the highlighted portions of the documents dated December 22, 1993, and December 16, 1993, as well as the highlighted portion of the document titled "Determination," from required public disclosure. The department may withhold this information under section 552.107.

We next turn to your claim that section 552.117 excepts from disclosure the home addresses and home telephone numbers contained in the enclosed documents. Sections 552.024 and 552.117 of the Government Code protect from public access the home addresses and home telephone numbers of current or former governmental employees who have chosen to keep this information private. You must withhold the home addresses and home telephone numbers of those employees who, as of the time of the request for the information, had elected to keep this information private. Open Records Decision Nos. 530 (1989) at 5, 482 (1987) at 4, 455 (1987).

Finally, you claim that the social security numbers on the documents disclosed should be excepted from public disclosure under section 552.101. A social security number is excepted from required public disclosure in certain situations under section 552.101 of the Government Code in conjunction with the federal Social Security Act. This office concluded in Open Records Decision No. 622 (1994) at 3, that amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), make confidential social security numbers obtained or maintained pursuant to any provision of law enacted on or after October 1, 1990. If these social security numbers were so obtained or maintained, the information is confidential and may not be disclosed. You may not, however, withhold from this requestor her own social security number. *See* Open Records Decision No. 481 (1987) at 4.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Margaret A. Roll". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Margaret A. Roll  
Assistant Attorney General  
Open Government Section

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Ref.: ID#31077

Enclosures: Submitted documents